

(iii) Reducing a Participant's approved level of 8(a) support;

(iv) Reducing, or eliminating, sole source 8(a) contracts;

(v) Program termination pursuant to § 124.209—program termination proceedings will be commenced where a firm makes no efforts to obtain non-8(a) revenues.

[54 FR 34712, Aug. 21, 1989, as amended at 55 FR 34903, Aug. 27, 1990; 60 FR 29977, June 7, 1995]

§ 124.313 Certification of SBA's competency.

(a) SBA will certify that it is competent to perform the requirement, as provided by section 8(a)(1)(A) of the Small Business Act, based on its determination that the 8(a) concern with which it intends to subcontract is responsible to perform the requirement. If SBA determines that the concern lacks the capability, competency, capacity, credit, integrity, or tenacity and perseverance to perform on a specific 8(a) subcontract, the subcontract will not be awarded to such concern. A Program Participant which has not submitted required financial statements to SBA will be deemed not responsible to receive 8(a) subcontracts. In addition, SBA will also certify whether an 8(a) concern is eligible under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35(a), for each individual 8(a) subcontract.

(b) SBA's determination not to award a Program Participant a specific 8(a) subcontract because the concern lacks an element of responsibility, or is ineligible under the Walsh-Healey Public Contracts Act, does not constitute a denial of total 8(a) program participation for the purposes of section 8(a)(9) of the Small Business Act.

(c) A Participant that is determined by SBA not to be responsible to perform a sole source or competitive 8(a) contract may not seek the issuance of a Certificate of Competency pursuant to § 125.5 of this title.

§ 124.314 Performance of work by the 8(a) concern.

(a) To assure the accomplishment of the purposes of the 8(a) program, each 8(a) subcontractor must perform work

equivalent to the following percentages:

(1) *Services (except construction).* In the case of an 8(a) contract for professional and/or non-professional services (except construction), at least 50 percent of the cost of contract performance incurred for labor must be expended for employees of the 8(a) concern.

(2) *Supplies (other than procurement from a regular dealer in such supplies).* In the case of an 8(a) contract for supplies, an 8(a) concern that seeks to perform the requirement as a manufacturer must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials. This requirement does not apply to 8(a) concerns that seek to perform 8(a) supply contracts as regular dealers in such supplies.

(3) *General construction.* In the case of an 8(a) general construction contract, the 8(a) concern must perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) *Construction by special trade contractors.* In the case of an 8(a) contract for special trade construction (e.g., electrical, plumbing, mechanical), the 8(a) concern must perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

(b) The Program Participant must certify in its bid or proposal that it will perform the required percentage of work with its own employees. Failure of the concern to provide such a statement will result in the firm being considered ineligible for award.

(c) For purposes of determining whether a Program Participant will perform the required percentage of the contract, the work to be performed by a subsidiary(ies) of the Participant or a concern(s) otherwise affiliated with the Participant is not counted as being performed by the Participant.

(d) *Indefinite quantity contracts.* (1) In order to ensure that the required percentage of an indefinite quantity 8(a) award is performed by the Program Participant, at any point in time the Program Participant must have performed the required percentage of the total value of the contract to that